

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE CHRYSLER-DODGE-JEEP
ECODIESEL MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION.

Case No. [17-md-02777-EMC](#)

**PRETRIAL ORDER NO. 9: ORDER RE
CASE MANAGEMENT CONFERENCE
OF AUGUST 8, 2017**

The Court held a case management conference in the above-referenced case on August 8, 2017. This order memorializes the Court's oral rulings and provides additional guidance, as necessary.

1. *Service of summons and complaint in private lawsuits.* Mr. Giuffra represented that his law firm will be representing not only the FCA entities but also the FCA-affiliated individual defendant Sergio Marchionne. Mr. Giuffra and the PSC are coordinating regarding service of the summons and complaint on Mr. Marchionne.

Mr. Slater represented that, as of date, his law firm is representing the Bosch entities but *not* the Bosch-affiliated individual defendant Volkmar Denner. The PSC stated that it is attempting to resolve the issue of service on Mr. Denner without the need to resort to the Hague Convention procedures but that it shall do so, if necessary. In the interest of moving this litigation forward expeditiously, the Court advises all parties that, absent good cause, it expects the service issue will be resolved without the need to resort to the Hague Convention procedures.

2. *Responses to complaint in private lawsuits and complaint in government lawsuit.* With respect to the private lawsuits, the PSC agreed that all Defendants could file their response by October 6, 2017. With respect to the government lawsuit, the Court orders the government and

Defendants to continue to meet and confer to see if they can reach agreement on an extension until October 6.

3. *Amendment of complaint in private lawsuits.* As proposed by the parties, the PSC shall have until October 31, 2017, to amend the consolidated consumer class action complaint to add additional parties and claims. This ruling does not bar the PSC from thereafter seeking leave to amend the complaint pursuant to Federal Rules of Civil Procedure 15 and 16.

4. *Other actions.* The parties represented that they are not aware of any related actions, other than a state action in Texas and the federal securities case filed in a New York district court. At this juncture, CARB has not filed an action, nor have any state attorneys general. The absence of a formal action does not preclude CARB, a state attorney general(s), or any other federal or state agency from participating in the settlement discussions led by Mr. Feinberg. The Court defers to Mr. Feinberg as to participation of any nonparty.¹

5. *Discovery.* Discovery is open in the actions covered by this MDL. Discovery may be propounded even though a formal discovery plan has not been submitted to the Court for its review and approval. Per the agreement of the parties, initial disclosures shall be exchanged no later than September 29, 2017. Initial disclosures and discovery that will assist in settlement discussions may be the initial focus of the parties, but the Court advises the parties that they may proceed with full merits discovery. The Court does not intend to phase class certification discovery prior to merits discovery. Discovery shall encompass information regarding CARB's conditional executive order and EPA's certificate of conformity; such discovery shall be produced forthwith.

6. *Class certification in private lawsuits.* The Court shall hold a hearing on the PSC's motion for class certification on Thursday, June 14, 2018, at 1:30 p.m. The briefing for the motion shall be as follows:

- March 1, 2018: The PSC shall disclose the experts on which it shall rely for the class certification motion.

¹ With respect to the state attorneys general participating in settlement discussions, a letter shall be filed indicating their participation either directly or through a representative(s).


- March 15, 2018: The PSC shall file the motion for class certification.
- April 12, 2018: Defendants shall disclose the experts on which they shall rely for their opposition to the class certification motion.
- April 26, 2018: Defendants shall file their opposition brief. (Absent good cause, the Court expects a consolidated opposition from Defendants.)
- May 24, 2018: The PSC shall file the reply brief.

7. *Trial.* At this juncture, the Court shall not formally set a trial date but the parties are forewarned that, with respect to those cases over which it has jurisdiction for trial purposes, it intends to keep the cases on track for a trial in early 2019. Although the Court reserves ruling as to scope and possible phasing, based on the Court's knowledge and understanding at this point in the proceedings, there will be likely be a joint trial as there are material factual issues common to many claims/cases.

8. *Further status conference.* The Court shall hold a further status conference in the MDL on October 3, 2017, at 10:00 a.m. All parties (in both the private and government lawsuits) shall file a joint status conference statement one week prior to the conference.

IT IS SO ORDERED.

Dated: August 9, 2017


EDWARD M. CHEN
United States District Judge